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H – 1259

International Court of Justice

Nuernberg, 24 June 1946.

The Case of Baldur v. SCHIRACH.

Baldur v. SCHIRACH, who at that time was Reich Youth Leader (Reichsjugendfuehrer) welcomed in 1936 the guests to the Olympic Games in Berlin with the following words:

"Youth throws a bridge across all frontiers and seas!"

I call to the Youth of the World and through them, to Peace."

And Baldur v. SCHIRACH, then Gauleiter of Vienna, said to HITLER in 1940:

"Vienna cannot be conquered with bayonets, but only with music."

Those two sayings are characteristic and show what kind of man is this defendant. It is the duty of the defense to examine the evidence produced in this trial for the purpose of ascertaining whether the said Baldur v. SCHIRACH who expressed his political programme by such utterances, really committed those crimes against law and humanity, with which he is charged by the Prosecution.

SCHIRACH is the youngest defendant here. He is also, of all the defendant the one who was by far the youngest on his joining the Party, which he did when he was not yet 18. Those facts are perhaps already of some significance for the judging of his case. When still at school he entered the fold of the rising National Socialism; he was particularly attracted by the Socialist idea which had already in his country school, recognized no difference between the sons of fathers of different classes and professions; those boys around SCHIRACH actually

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in the popular movement of the 1920 s in Germany the promise of the resurgence of our Fatherland from the aftermath of the lost Great War, to a happy future, and fate willed it that as early as 1925 SCHIRACH came into personal contact with HITLER in Weimar, Goethe's old town. HITLER's personality made a fascinating impression on young SCHIRACH, as he himself admitted; the program for the Racial Community (Volksgemeinschaft) which HITLER had evolved at that time met with SCHIRACH's hearty approval, because he thought he saw, reproduced therein, on a full-size scale, that which he had personally experienced in a small way in the comradeship of the country school and in his Youth organization. To him and his comrades HITLER appeared as the man who would open for the younger generation the road into the future, from him this younger generation also got its hope for a possibility to work, its hope for a competency, its hope for a happy life. So the young man became a convinced National Socialist; he became one as a result of the environment in which he had spent his youth, and which offered a soil which was only too fertile for the growth of that ideolgy (" eltanschauung") which young SCHIRACH embraced, because at that period he held it to be the right one.

This environment of his childhood and a biassed reading of political books, which the young man devoured in his hunger for knowledge, made of him, while still an inexperienced youth, also an anti-semite. It is true that he did not become an anti-semite in the sense of those fanatics who ended in not recoiling with horror from acts of violence and progroms, nor in the sense of those fanatics who finally created an Auschwitz and murdered millions of Jews, but of an anti-semite in that moderate sense, who would merely restrict Jewish influence in the government of the state and in cultural life, but for the rest would leave untouched the freedom and rights of Jewish follow-citizens, and who never thought of exterminating the Jewish people. At least, that is the picture of HITLER's anti-semitism which young SCHIRACH drew for himself during those years.

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That this was really SCHIRACH's opinion is also substantiated by the declaration which SCHIRACH made here in the morning of 24 May 1946, and in which he described without reservation the crimes committed by Hitler as a spot of shame in our history, as a crime which fills every German with shame; that declaration in which he openly expresses that Auschwitz was bound to be the end of each and every racial policy and anti-Semitism. This declaration came from the deepest spot in the heart of the defendant SCHIRACH; it was the result of the terrible disclosures which these trials have brought him also, and SCHIRACH has given this declaration here before the broadest public, in order to bring back the German youth from a wrong road to the road to the road of justice and tolerance.

Let us now regard the more important accusations which have been raised against SCHIRACH, and the major results which the evidence has shown in the individual points:

1. The defendant SCHIRACH is first of all accused that BEFORE the seizure of power, therefore before the year 1933, he ACTIVELY FURTHERED the National-Socialist Party and the youth-organization linked with it, and that he had thereby contributed that the PARTY could COME INTO POWER; he had been, as is stated in the Trial Brief, a close and subordinate follower of HITLER; he had stood in blind loyalty to HITLER and the latter's National Socialist world of thinking; and he had, as leader of the student-league, led the students ideologically and politically to National Socialism and won them for it."
All this is not denied by SCHIRACH in any manner: He has done what he is being accused of in this respect; this he confesses openly, and for this he naturally holds himself responsible today also. The only thing which he denies for this/as also the later time the more emphatically is the accusation that he had participated in a CONSPIRACY. According to SCHIRACH's opinion, the Fuehrer-principle and dictatorship in their character and their theory are absolutely incompatible with the idea

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of a conspiracy, and a conspiracy appears to him as a logical impossibility if many millions of members are to be included in it, and its existence and aims lie exposed before the country in question as well as the foreign countries. We furthermore know from the results of these trials that HITLER aside from BORMANN and HIMMLER, did not have any friend, any advisor, with whom he expressed himself as to his plans and aims; he rather drove the Fuehrer-principle to the furthest extremes; he took no cognizance of any advisory meetings and discussions, but reached his decisions solely by himself, without even listening to only the opinion of his closest surroundings; with him there were only orders on his part and unconditional obedience on the other side. That is how the "conspiracy" actually looked and all of us who have lived through these trials would never have considered this most radical increase of the Fuehrer-principle possible, had not ALL defendants and ALL witnesses who know about this, in complete agreement, and without a single exception, shown the same picture to us again and again.

SCHIRACH now is not denying at all that already in his very early years he came completely under the influence of HITLER; that he had placed himself with his whole young personality in the service of this idea; and that at the time, as is stated in the indictment, he was devoted to HITLER with unconditional loyalty.

If this was a crime of young SCHIRACH, a crime which millions of older, more experienced, mature Germans have committed with him, then you as judges may condemn him for this, if our law code furnishes a legal basis for it. This then would be a further disappointment in additon to the many others which he has already experienced for years: SCHIRACH knows today that he has given loyal support unto the end to a man who did not deserve this, and he also knows today that the ideas for which he was enthusiastic in his young years and for which he sacrificed him-

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self led in practice to aims, which he himself had never thought of. But also the SCHIRACH of today, cleansed by many experiences, cannot see any criminal act in that activity of his younger years carried out in good faith, which he developed for HITLER and the latter's party. Because the Party, at that time, appeared quite legal to young SCHIRACH, SCHIRACH never had any doubt that it also came into power by legal means. The seizure of power by the Party, the appointment of HITLER as Reich Chancellor by Reich President von HINDENBURG, and winning the majority of the people through the Party in repeated elections confirmed young SCHIRACH again and again the legality of the movement. If today he is to be punished, because he acknowledged this same HITLER as his Fuehrer whom millions of Germans and all states of the world have recognized as legal head of the state, so SCHIRACH could never acknowledge such a decision as being just. In spite of the severe judgment, which he himself has pronounced in this Court Room about HITLER, he would feel himself as a victim of his POLITICAL CONVICTIONS, if he were to be sentenced because as a young, enthusiastic man he had joined the National-Socialist Party and collaborated in its construction and seizure of power. At the time he did not recognize that as a crime, but from his standpoint he considered it as his patriotic duty.

2. The second, far more important accusation which has been raised against the defendant v. SCHIRACH goes to the effect that he, as Reich Youth Leader in the years 1932-1940, in order to cite the accusation word by word, "poisoned the world of thought of the youth with the Nazi-ideology, and especially trained it for AGGRESSIVE WAR." SCHIRACH has always refuted this claim with all decisiveness, and these claims have not been substantiated either, by the results of the evidence.

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The law on the Hitler Youth of 1936 described SCHIRACH's task as Reich Youth Leader "to educate the youth outside of the parental home and outside of the school physically, intellectually and morally for service to the people and to the community of the people, in the spirit of National Socialism through the Hitler Youth Movement and its leader, the defendant v. SCHIRACH." This program is being repeated word for word in the enactment decree of 1939, which came out so late because SCHIRACH did not intend to introduce compulsory membership until the movement would practically include the entire German youth on the basis of voluntary membership so that future joining by compulsion would exist on paper only.

The Hitler Youth program as it is formulated by SCHIRACH in his speeches and pamphlets does not contain a single word which would indicate a military education of youth, much less an education for aggressive warfare. But even in practice the education of youth according to SCHIRACH's ideas in no way gives evidence of a military education of German youth for such a purpose. In that respect the point was stressed that the Hitler Youth was organized in various "Battalions and divisions"; that is correct although the designations listed by the prosecution are not correct and although they do not have the least bit in common with military formations. But, in the last analysis, every youth movement the world over will show a classification into smaller or larger units; each of these units naturally needs a name also, and it must also have a responsible leader, and similar to other countries,

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character of youth education. From his own familiarity with practices in foreign countries SCHIRACH knows that foreign youth organizations in Switzerland as well as in France, in England as well as in America, in Czechoslovakia as well as in Yugoslavia, also have similar classifications and similar insignia, and it never occurred to us so far to make that a reason for considering such foreign youth organizations as military associations.

It was furthermore stressed that formations of the male youth in Germany were also given training in shooting. That is also correct but proves equally little, because the shooting instruction for the Hitler Youth consisted fundamentally and without exception of low-caliber target practice, in other words, using short, light rifles (Flobertstutzen) which are nowhere in the world considered as a military weapon and which are not even mentioned in the enumeration of military weapons in the Versailles Treaty. "Hitler Jugend" in Germany did not possess a single military weapon, no infantry rifles and no machine-guns, no motorized airplanes, no cannon and no tanks. However, if one wants to speak about military training, the training would have to be primarily in military weapons, such as are used in modern warfare. As a matter of fact, and in order to give added importance to his office a certain Dr. STELLRECHT a technical adviser on shooting instruction in the leadership of the Reich Youth attempted, as was established in his cross-examination (Page 10-199 and following in stenographic transcript) to ascribe a certain considerable importance to this very branch of youth training, in order to make his own office appear particularly important; SCHIRACH, however, was able to show without refutation that for this very reason he developed differences of opinion with this technical adviser and so finally parted from Dr. STELLRECHT because he, (SCHIRACH) rejected any development which might perhaps have led to a military training of the youth. However, this Dr. STELLRECHT also, who was brought

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forward by the prosecution as a witness against SCHIRACH , (page 10 199) has nevertheless also admitted for his part "that not a single boy in Germany was trained in handling weapons of war" and that "not one boy was given a military weapon". Of further importance for consideration of these questions is the fact that SCHIRACH as a matter of principle refused to permit the youth to be trained by active officers or former officers, because he considered these persons entirely unsuitable to educate the youth in that spirit which he envisioned as the goal of his activity. Moreover, neither SCHIRACH nor any of his closer associates, were officers before the war and the same holds true for the overwhelming majority of the high or low-ranking HJ leaders subordinate to him.

All these facts are firmly established through the testimony of the defendant SCHIRACH himself and through depositions made by the witnesses LAUTERBACHER, Gustav HOEPKEN and Maria HOEPKEN during their examination. For a number of years these witnesses were SCHIRACH's closest assistants; they are thoroughly familiar with his views and principles and they have unanimously confirmed that it is entirely out of the question to speak of a military, or even a pre-military, training of the HITLER Jugend.

It has also been repeatedly emphasized in rebuttal that the HITLER Youth wore a uniform. That is correct, but it proves nothing. For the youth organizations of other countries, too, are accustomed to wear a common costume, some sort of a uniform, without anybody for this reason terming them military or semi-military corporations, and SCHIRACH and several of his associates have informed me that in many democratic countries which certainly do not contemplate war, much less a war of aggression, the male youth is being trained in handling actual military weapons and that every year contests are held in shooting with military rifles.

But why was it that SCHIRACH introduced a uniform for the HITLER Youth, and indeed not only for the boys but also for the girls? We have heard the answer to this from several witnesses:

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SCHIRACH saw in the uniform of the boys and in the uniform costum of the girl the "dress of socialism", the "dress of comradeship". The child of the rich industrialist was to wear the same clothes, as the child of the miner, the son of the millionaire the same as the son of an unemployed. The uniform of the HITLER Youth was to be as SCHIRACH already wrote in 1934 in his book "The HITLER Youth", "the expression of an attitude, which did not ask for class and property, but only for effort and achievement". The uniform of the HITLER Youth was for SCHIRACH, as expressed further in this same book of his "not the sign of any militarism, but the emblem of the idea of the HITLER Youth, namely the idea of the classless community", in the spirit of the election slogan which he gave the Youth in 1933: "Through Socialism to the nation". SCHIRACH always remained faithful to this principle. Thus he wrote in the official publication of the HITLER Youth 1937 (Doc. book von SCHIRACH, page 35): "The uniform is not the expression of a martial attitude, but the dress of comradeship; it extinguishes class difference and again makes the child of the most insignificant worker socially acceptable today; the young generation in our new Germany must be united in an indissoluble community". SCHIRACH had this comradeship and this socialism in mind when he described in 1934 in his book " The HITLER Youth", how he imagined this socialism: "Socialism does not mean to take the fruits of his work away from someone, in order to give everybody something produced by the work of another. Everyone is to work, but everyone is also to harvest the fruits of his work. It is also not to be that one person should get rich, while thousands of others must suffer want because of him. Whoever exploits his work and spoliates the community in order to fill his cash box, is an enemy of the German people". (Doc. book von SCHIRACH No. 55 page 98).

SCHIRACH has pointed out again and again in his numerous writings, articles and speeches, which have been collected in the document book and have been submitted to the Tribunal, that he did not desire any "pseudo-military exercise"

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which would only spoil the joy of the Youth in the movement." (For instance, Doc. book B. v. SCHIRACH, page 102.) The training of the boys in small caliber shooting went hand in hand with the training in all sports activities and complied with the inclination of the male youth, which surely favors in all states the shooting sport with particular interest. But this training had to be decreased very much in volume and importance in favor of the greater aims, which SCHIRACH pursued in the Hitler Youth and about which the examined witnesses give as clear a testimony as the writings and speeches of von SCHIRACH. These aims of the Hitler Youth eduction are to be explained here briefly, as they have been proven by the presentation of evidence; SCHIRACH is naturally not being charged with these other aims of the Hitler Youth education, but one must consider them nevertheless if one is to obtain a total picture of his activity and of his plans.

Besides the already mentioned education of the youth for comradeship, for socialism in the sense of overcoming class distinction, SCHIRACH had, as he explained here, primarily 4 aims in mind:

First the training in sports of the youth in the most varied types of sports and in connection with it the hygienic care of the youth; this branch of the education of the youth took up a very large part of the training of the Hitler Youth, and if the German youth obtained such unexpectedly great success at the Olympic Games in 1936, it was to a certain degree due to the activity of the leadership of the Hitler Youth in cooperation with the sports leader of the Reich v. TSCHAMMER - OSTEN.

A further aim was the further professional training and advancement of the working youth and the improvement of the position of adolescents in the youth laws, particularly by prohibition of nightwork, by increasing the free time, by granting of paid vacations, by prohibition of child labor, by raising of protected age of adolescents etc, the vocational advance training was promoted so strongly

that finally over 1 million boys and girls entered professional competition annually, and from year to year the average performance in each profession rose very considerably.

A third primary aim was the advancement of love of nature, far away from the slums of large cities, during hiking trips and in youth hostels, inns. Thousands of youths homes and youth hostels were built in the course of these years because of Shirach's initiative and namely by the own means of the Hitler Youth itself, to get the youth out of the large cities with their temptations and vices and return to rural life, to show them the beauties of the homeland and also to give a vacation to even/the poorest child.

But Shirach dedicated his greatest care to a fourth goal of the education of youth: namely the understanding with youth of other nations, and this activity especially is a particularly suitable test for the question, whether one can accuse defendant von Schirach to have taken part in the planning of wars of aggression. Schirach has told us here on the witness stand, that again and again, in summer as in winter of every year, foreign youth groups were the guests of the German youth and it is shown by the documents in Von Schirach's document book for instance that already in the year 1936, no less than 200,000 foreign youths received overnight lodgings in German youth hostels; vice versa, year after year German youth delegations went abroad, especially to England and France so as to enable youth to get acquainted and respect one another. Those very endeavours/of Shirach's, which would be absolutely incompatible with the intention to prepare wars of aggression, received unlimited recognition before the war abroad as well. In one of the special numbers of the Hitler Youth magazine in "Wille und Macht" (Will and power) of 1937, dedicated to this task of understanding, which was also published in French and which is quoted here only as an example, the French Premier

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Chautemps (see Doc. Book v. Shirach page 171) declared his willingness, as chief of the French government, to advance the further development of these peaceful meetings. "I wish", he wrote, "that the young men of both nations could live every year side by side by the thousands and in this way learn to know, to understand and respect each other. And further: "Our two nations know, that an understanding between them would be one of the most valuable factors for world peace; therefore it is the duty of all those, on both sides of the frontier, who have a clear view and human feeling to work for the understanding and rapprochement of both nations. But no one could do it more sincerly and more enthusiastically than the leaders of our beautiful youth, of the French and of the German youth. If they understood it to unite this youth, they would hold in their hands the future of European and human culture." The mayor of Versailles of that time wrote in the same spirit, ending his appeal in the monthly of the Hitler Youth with the words: "The education of youth in this spirit is one of the most important tasks of the politicians of both our contries." (Doc. Book v. Schirach, page 172). The French ambassador Francois Poncet recognized just as heartily Schirach's efforts in the same publication (Doc. Book B.v. Schirach, page 173) under the title "Youth as a Bridge" and concluded his lengthy article with the words: "French participation enriches German soil. German influence fertilizes French spirit..... May this exchange develop further. May also the generations, which will benifit of it at one time, contribute to bring the two halves of Charlemagne's empire closer and to create between them those relations of mutual respect, harmony and of good comradeship for which both nations are deeply longing, because their instinct tells them, that the welfare of European culture depends on it and because

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they know very exactly, when they look into themselves that they have many more reasons to respect and admire each other than to hate each other."

And Schirach himself answered in the next issue of his monthly publication with an enthusiastic article, under the title: "Salute to France". In it he writes for instance: "The rapprochement of our two people is a European task of such urgent necessity, that youth has no time to lose in order to work for its achievment." Then further: "Youth is the best ambassador of the world, it is disinterested, frank and without the eternal distrust of which diplomats can frequently not be cured because to a certain extent it is their professional disease. However no propagandistic intentions may be hidden behind youth exchange.....I consider it now as my task to bring about a conversation between German and French youth, which must not be on the German side composed of nice statements from me, but of many personal conversations of thousands of young Germans with just as many young Frenchmen.....One must believe in youth, because it above all, can carry out a true understanding." And at the end Schirach reminds that all higher youth leaders of the German Hitler Youth shortly before expressed their respect in the name of the young generation of Germany to the French unknown soldier by placing a wreath under the Arc de Triomphe, and he concludes with the words: "The dead of the great war died while carrying out their patriotic duty and nobly devoting themselves to the ideal of liberty, but Germans as well as French were always full of respect for the gallant foe. If the dead respected themselves, then the living should try to shake hands. If the returned combat veterans of both nations could become comrades, why should the sons and grandsons not become friends?

These are the words of the same Baldur v. Schirach, whom the prosecution tries to brand as a deliberate partner in a Hitlerian conspiracy for war!

The prosecution wants to make a war criminal out of this untiring prophet of international understanding and of peace, who is charged with having militarized youth and prepared it bodily and psychologically for wars of agression.

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So far, the Prosecution has not been able to furnish evidence to this effect.

SCHIRACH has written various doctrinal books for youth, which were used against him in the Trial Brief; he has published a quantity of essays on the most varied problems of Youth education; his innumerable speeches, addressed to youth, have been published; his orders and instructions to youth are available in a collected form; it must, however, be concluded that amongst all this which constitutes his utterances, not a single item is to be found in which he made instigations in favour of war or preached attacks against other countries. The Prosecution has stated in this very connection (Page 2635 of the Transcript) that he has referred to Lebensraum in his book "The Hitler Youth" and by so doing adopted as his own an unpleasant slogan of the Hitlerite aggression policy; this claim is however unjustified, for the whole book "The Hitler Youth", does not, any more than every other speech and writing of SCHIRACH, contain this word at all. True, he has referred to "Eastern Space" (Ostraum) in two places in the said book "The Hitler Youth", published in 1936, but he quite obviously did not in any way refer by this term to Polish or Soviet-Russian territories, but to the Eastern provinces of the former German Empire, that is to say, to territories which formerly belonged to Germany but were notoriously very thinly populated and well-suited as settlements for the excess of population.

Nowhere has SCHIRACH at any time up to the outbreak of the second World War expressed the idea that he might wish Germany to conquer foreign territories; neither has he ever uttered the odious slogans of German "Master Race" or "Subhumanity" of other nations; he has, on the contrary, always opined in favour of the preservation of peace with the neighbouring Nations and

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always intervened in favour of the peaceful settlement of any conflicts that cropped up and of inevitable clashes of interests. Had HITLER possessed but a fraction of the love of peace which his Youth Leader preached time and again, then perhaps this war would have been spared us Germans and the whole world.

4. Since the Prosecution could not prove to defendant v. SCHIRACH that he ever served HITLER's war policy before the War, he is now charged with having had various relations with the SS and SA. and especially to have drawn his young recruits from the Hitler Youth as well as the SS and SA, as also the Leader Corps (Fuehrerkorps) of the Party. This last fact is correct but proves nothing as to SCHIRACH's attitude towards HITLER's war policy and is equally pointless as regards the question of his participation in a war conspiracy of HITLER's. For if 90 to 95% or more of German youth belonged to the Hitler Youth, then it was only natural that the Party as well as its formations should draw their young recruits from year to year and to a growing extent from the Hitler Youth. Practically no other youth was available. If the Prosecution, however, refers to the agreement between the Youth Leadership and the Reichsfuehrung SS dated Oct. 1938 (see 2396 PS) concerning patrol service for the Hitler Youth, it cannot, by any means, draw any inference therefrom, for patrol service in the Hitler Youth was only an institution designed to control and supervise the discipline of the Hitler Youth members when they made a public appearance; this was therefore a kind of corporative police operation carried out by the Hitler Youth against their own members and against them alone. In order, however, to guard against difficulties with the general police, an arrangement by agreement with the Reichsfuehrer SS HIMMLER was necessary because the latter was the Chief of the whole Police Organization in Germany and could have made difficulties for the institution of the patrol service.

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This was the only object of the agreement of October 1936, which in reality had just as little to do with providing new blood for the SS, as with the conduct of and the preparation for war. Moreover, it can clearly be seen how much Schirach resisted any influence the Party might win over the Hitler youth from the fact that in 1938 he protested very sharply against having the education of the Hitler Youth during the last two years, namely from 16 to 18 years, taken over by the SA; he sharply rejected this plan and through a personal visit to Hitler succeeded in having the Fuehrer order in question not carried out in practice. As for his attitude toward the SS, we know from the testimony of the witness Gustav Hoepken (Schirach Document Book No. 3, figure 5) that Schirach always feared he was being shadowed and spyed upon by the SS in Vienna. He always had an uncomfortable feeling, because at the beginning of his activity in Vienna there had been appointed for him for the business of Reichsstatthalter and Reich Defence Commissioner, a permanent representative in the person, of all things, of a higher SS leader (Dr. Delbruegge), who, as Schirach knew, had direct connections with the Reich leader SS, that the same man who proposed to Hitler in 1943 to have Schirach imprisoned for defeatism and to have him placed before the people's court, which meant in practice that by Himmler's urging, Schirach would be hanged. (compare No. 155 and 156 of the transcript). These facts alone already prove what was the real relation between defendant v. Schirach and the SS and it is then comprehensible why Schirach finally refused even the "Protection" by the police force appointed to him and preferred to transfer his personal protection to a unit of the Wehrmacht which did not understand the order of Himmler (compare Affidavit Maria Hoepken figure 5 in v. Schirach Document book No. 3).

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5. The defendant v. SCHIRACH's attitude with reference to the Church question, included in the Indictment, is also in keeping with his portrait as depicted by the details so far given. This issue is, in fact, given a minor part in the Indictment, but turns out nevertheless to be of considerable importance for the judgement of SCHIRACH's human personality.

SCHIRACH himself, as well as his wife, always remained in the bosom of the Church. To the foreign critic this circumstance may perhaps appear an unimportant detail, but we Germans know the amount of pressure exercised upon ranking Party officials precisely in such matters, and how few, in this position, ventured to resist such pressure. SCHIRACH was one of those few. He was that high-ranking Party Leader who constantly and invariably stepped in with extreme severity when he learnt of hostile interference and outrages against the Church on the part of the Hitler Youth. He has indeed been reproached the fact that various songs were sung by the Hitler Youth, which contained outrageous remarks about religious institutions, but in this respect SCHIRACH could with a good conscience, confirm his oath (Pages 10210 et seg. of the Session Transcript) to the effect that he was to a certain extent unaware of these songs, which is entirely conceivable where an organization of 7 or 8 million members is involved, and moreover that certain songs, now considered objectionable, date back to the Middle Ages and have figured in the Song-book of the "Wandervogel", a former Youth organization which the Prosecution surely does not propose to condemn. SCHIRACH has, however, especially pointed out that in the years 1933-1936, several million youths from an entirely different spiritual environment joined the Hitler Youth (see Page [illegible] of Session Transcript), and that in the first revolutionary years, that is, in the period of storm and stress of the movement, it was quite impossible to hear of and prevent outrages of this sort.

Whenever SCHIRACH

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heard of such things he intervened and repressed abuses of this kind, which naturally represented only excesses on the part of isolated elements and could not commit the Youth organization as a whole.

It is SCHIRACH's conviction that the examination of evidence leaves no doubt as to his conciliatory behaviour in the matter of the Church, and to the fact that he strove to establish a proper relation of mutual respect between the Church on the one hand and the 3rd Reich, and more especially the Reich Youth Leadership, on the other hand, and to observe their respective rights and competence. At his own request, SCHIRACH was invested by the Reich Minister of the Interior with the direction of the Concordat negotiations with the Catholic Church in 1934, because he hoped, by his personal cooperation, to achieve an agreement with the Catholic Church more easily. He has honorably endeavoured to find, for the settlement of the Youth question, a formula upon which unanimity with the Catholic Church could be possible. His moderation and good will in this respect were then indeed frankly acknowledged by the representatives of the Catholic Church. But it was all ultimately frustrated by HITLER's opposition, and the complications created, particularly for these negotiations, by the events brought about on the 30 June 1934 by the ROEHM putsch.

With the Protestant Church on the other hand, SCHIRACH achieved an agreement with the Reich Bishop Dr. MUELLER, so that the incorporation of the protestant Youth associations in the HITLER Youth was not achieved by constraint but by mutual agreement, and therefore not by the "breaking up of these associations" by the State or Party as the Prosecution assumes, but upon the initiative of the Ecclesiastical head and in complete agreement with him.

It must be pointed out here that it was always SCHIRACH's policy that on the part of the youthleadership neither then nor later restrictions were imposed on church services for youth. On the contrary, as he himself has testified (page 10198 of the transcript) and as was confirmed by the witness LAUTERBACHER: (page 10324 of the transcript) SCHIRACH emphatically stated in 1937 that he would leave it to the churches to educate the Youth according to the spirit of their faith and at the same time he ordered that, as a principle, no HITLER Youth duty was to be arranged on Sundays during the time of church services; he gave strict orders to the unit leaders of HITLER Youth that organizational duty was to interfere in no way with Sunday church services. If however in individual cases such interferences occured anyhow and, - as it was proven in the crossexamination, - religious authorities made complaints about this, then the defendant SCHIRACH can not be blaimed for this nor does it alter the good intentions which he had.

Not one single case could be proven when he incited against the church or had made anti-religious statements; on the contrary, at numerous rallies, contained in the von SCHIRACH document book which has been presented to the Tribunal, he not only repeatedly rejected the accusation that the HITLER Youths were enemies of the church or atheists, but he positively always inculcated the leaders and members of the HITLER Youth with the obligation to fulfil their obligation toward God; he would not tolerate anyone in the youth who did not believe in God; every true educator, would have to be at the same time an educator for religious feeling, it being the basis for all educational activity; HITLER Youth duties and religious convictions could very well be associated with each other and exist side by side. The HITLER Youth leader was to bring no conflicts of conscience whatsoever to his adherents. Leave from duty was to be granted to HITLER Youth members for religious services, rites and such.

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Whoever gives such instructions to his deputy and repeats them over again, can claim that he will not be judged as an enemy of the church and as an enemy of religious life. By the way, it is interesting in this connection, what such a reliable judge as Neville Henderson wrote in his oft-quoted book Failure of a Mission about a speech which he heard from the lips of Schirach at the 1937 Reich Party Rally (Document Book v. Schirach No. 93, page 149): Henderson, who as ambassador in Berlin, knew intimately the German conditions evidently expected that Baldur v. Schirach would speak against the church at the Reich Party Rally and would influence the youth in the spirit of enmity to the church, as was often heard from the other leaders of the Party.

Henderson writes: "On this day it was Schirach's speach which impressed me most, although it was quite short. A part of this speech surprised me, when he, addressing himself to the youth, said: "I do not know whether you are Protestants or Catholics, but I do know that you believe in God", and Henderson added: "Formerly I had the impression that all connections with upon religion were abolished within the Hitler Youth, but these expositions by Schirach appear to refute my assumption."

How Schirach really did think with regard to religion and in what sense he influenced the youth, is proved not only by his declaration of opinion which he expressed incidentally once in his speech to the teachers of the Adolf-Hitler Schools at Ordensburg Sonthofen, that Christ was the greatest leading personality of the world, but also similarly the small book submitted to you, entitled Christmas Gift of War Welfare Service; this book, which was sent to the front in large editions, was dedicated by Schirach to the front soldiers who came forth from the Hitler Youth in 1944, thus at a time when radicalism in all districts of Germany could not be carried too far.

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Here also SCHIRACH was an exception: you will find no swastika, no picture of Hitler, nor an SA-song in the book of Reich Leader v.SCHIRACH, but among other things an avowed Christian poem from SCHIRACH's own pen, next a picture of a Madonna, beside it a reproduction of van Gogh who, as is generally known, was strictly proscribed in the 3rd Reich. Instead of inflammatory words, we find an exhortation to a Christian way of thinking and a copy of the "Wessebrunner Gebet", the most remarkable prayer in the German language, as everyone knows.

Bormann was enraged when he saw the little book, but SCHIRACH remained firm and refused to withdraw the little book or alter it in any way.

The defendant v. SCHIRACH has now been charged with having once undertaken a hostile action against the Church and with having thereby taken part in the persecution of the Church: From a letter of Minister LAMMERS of 14 March 1941 (R 146) it appears that SCHIRACH proposed to keep confiscated property at the disposal of the districts (Gau), and not to hand it over to the Reich, this case alone is no justification at all for connecting the defendant v. SCHIRACH in some way or other with the persecution of the Church. In the case mentioned by the Prosecution, it does not concern Church property at all, but confiscated property of a Prince SCHWARZENBERG in his Vienna palace; this affair therefore had nothing to do with the Church; this is also confirmed unequivocally by Minister LAMMER's letter of 14 March 1941 (R 146), which mentions only a "confiscation of property hostile to the people and the State", whereas BORMANN's far reaching personal intention becomes apparent, and betrays its hostile tendency towards the Church, when BORMANN speaks about "Church properties, (Monasterial possessions and so forth)" in his accompanying letter of 20 March

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1941, referring to this case. Moreover, the confiscation of Prince SCHWARZENBERG's property has not been caused, pronounced nor carried out by SCHIRACH. SCHIRACH had nothing to do with the confiscation as such; SCHIRACH, however, agreeing with the other Gauleiter of the Austrian NSDAP and at their request, personally then applied to HITLER and requested that such confiscated

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property should not be taken to the Reich and not be used on behalf of the Reich, but that it should remain in Vienna. This proposal was crowned with success. HITLER complied with his request, the result being that, when the confiscation was rescinded later on, the property could be returned to its legitimate owner whereas it would otherwise have been lost to him. By acting thus, SCHIRACH no doubt rendered a service to the Vienna Gau and to that person who was the owner of the seized property. This case therefore cannot be charged to the defendant v. SCHIRACH, on the contrary, it speaks in his favour just as in the other case where, whilst circumventing BORMANN, he intervened on behalf of Austrian nuns and as a result obtained that the whole project of confiscating Church and Monastery property was discontinued in one day in the whole of the Reich by a direct order of HITLER.(Compare transcript pages 10 171 and 10 172) If, however, the Prosecution intends to reproach the defendant with the fact that the Vienna Authorities, subordinate to him, intended to remove an Adolf HITLER School into the Monastery of Neuburg in 1941 (see page 10 223 et seq. and Doc. No. 3927 PS), it must on the other hand be pointed out that, even prior to the requisitioning of this monastery, entirely endependent of SCHIRACH, the Vienna Police and several Vienna Courts had established the occurrence of considerable criminal offences in this monastery; furthermore that the confiscation of part of the monastery seemed entirely justified to the defendant SCHIRACH, as the very spacious rooms of this religious establishment were not required for monastery purposes. It must finally be pointed out that the monastery did not complain to the Reich Minister of the Interior, of the decision to confiscate, and therefore recognized the confiscation as just, although it had been expressly informed in the confiscation decree of the possibilit of lodging a complaint. Moreover, the confiscated rooms were afterwards not used for the establishment of an Adolf HITLER school, but for the purpose of the Museum of Historical Art, thus for no Party establishment, which again

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testifies to the fact that the confiscation decree had in no way been rescinded through SCHIRACH's hostile attitude towards the Church. For, had it been of importance to SCHIRACH, to injure the monastery, it being an Ecclesiastical Institution, he would also have confiscated the rooms used for religious ceremonies. He, however, strictly forbade their confiscation. After all, when appreciating this case, attention should be paid to the fact that the justification of the Confiscation Decree of 22 February 1941 had one remarkable reservation, the decree restricts itself to justifying the confiscation by the fact that on the one hand Vienna badly needed rooms and on the other the confiscated rooms were superfluous for the purposes of the monastery; not a single word mentions or even suggests that criminal offences had been established in the monastery, as mentioned in a Police report of 23 January 1941. If this confiscation had been the result of a hostile attitude to the Church, we could have been sure that somehow or other reference would have been made to these offences for justification of the confiscation. At SCHIRACH's instigation, a monthly rent was paid for it to the clergy who had occupied some of the confiscated rooms, for which rent there existed no political obligation whatever.

Defendant v. SCHIRACH's further behavior does not reveal at all a hostile attitude towards the Church, particularly, if one considers, whilst appreciating this behavior, that during these years a Reich Leader was also under strong pressure by the Reich Chancellory and by BORMANN and that a considerable amount of courage was necessary to resist this pressure and carry on a policy in opposition to the Berlin policy. The witness WIESHOFER of Vienna who had the opportunity of watching SCHIRACH's activities, confirmed that SCHIRACH in Vienna also strove to establish correct relations with the Church, that he was always willing to listen to Cardinal INNITZER's complaints, and took

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severe measures against the excesses of individual members of the Hither Youth or Hitler Youth Leaders. In Vienna, he thus carried out a policy towards the Church quite different from that which his predecessor had fovored, and it is beyond doubt that the Ecclesiastical circles in Vienna and the whole of the Vienna population appreciated SCHIRACH's attitude towards the Church. This is also confirmed by the witness Gustav HOEPKEN (Page 10331 of the Transcript) who, by order of SCHIRACH, held regular conferences with a Vienna theologian, Dekan Prof. Ens, to be able to inform the defendant SCHIRACH of the clerical wishes and the differences which had arisen with Ecclesiastical authorities. SCHIRACH could not do anything more in the prevailing political circumstances, as they are described in the Affidavit of Maria HOEPKEN, Document Book v. SCHIRACH No. 3, Figures 5, 10 and 11, if he did not wish to expose himself to the most serious danger.

6. The Prosecution has connected the defendant with concentration camps, not in the bill of indictment but during the presentation of evidence, and the witness Alois HOELLRIEGEL questioned here (page 1911 of the Transcript), was asked in the witness - box, whether SCHIRACH had ever been in MAUTHAUSEN concentration camp. To this I should like to remark: The defendant SCIRACH already mentioned his visit to MAUTHAUSEN in his own examination by the American Prosecution before the beginning of the trial; it would, therefore, not have been necessary to have this visit testified to again by the witness HOELLRIEGEL. He visited the MAUTHAUSEN concentration camp in the year 1942 not in 1944, as the witness MARSALEK erroneously stated; the exact year 1942 has been confirmed by the witness HOELLRIEGEL, and in the same way also by the witness HOEPKEN and WIESHOFER, from whom we heard that neither after 1942, nor at any other time, did SCHIRACH visit concentration camps. The visit to MAUTHAUSEN in 1942 cannot charge the defendant SCHIRACH in this sense with having known, approved and supported all the conditions and atrocities in concentration camps.

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In 1942 he saw nothing in MAUTHAUSEN which might have indicated such crimes. There still were no gasovens and such at MAUTHAUSEN in 1942. At that time mass - executions did not take place as get at MAUTHAUSEN. The statements of the defendant von SCHIRACH concerning his impression of this camp appear to be plansible, on the whole, because through the testimony of numerous witnesses, who have been heard during the course of this trial, it has been confirmed again and again that on the occasion of such official visits, which had been anounced, previously , everything was carefully prepared in order to show to the visitors only that which did not fear the light of day. Mistreatments and tortures were concealed during such official visits in the same manner as arbitriary executions or cruel experiments. This was the case at MAUTHAUSEN in 1942 and also at DACHAU in 1935, where SCHIRACH and the other visitors were shown only orderly conditions. Conditions, which at a superficial glance appeared to be almost better than in some ordinary prisons. As a result, SCHIRACH only knew that since 1933 there were several concentration camps in which, in his opinion, incorrigible habitual criminals were confined. However even today, SCHIRACH still cannot believe that the mere knowledge of the existence of concentration camps in itself is already a crime, since he at no time had done anything whatsoever to promote concentration camps, never has expressed his approval of this arrangement, never has sent anybody to a concentration camp, and since he also would never have been able to make any changes in this institution or to prevent the existence of concentration camps. SCHIRACH's influence was always too small for that. To begin with, as Reich Youth Leader he of course had nothing to do with concentration camps, and it was lucky for SCHIRACH that in his entire VIENNA district there was not a single concentration camp.

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His entire relations with concentration camps were therefore limited, to attempt again and again to have people released from the concentration camps, and it is significant, after all, that he used his presence in the concentration camp Mauthausen - the one and only time he was there - to use his influence for Viennese citizens who were imprisoned in Mauthausen, and to obtain their release.

6.a I do not want to go any more into many details which have played a larger or smaller part in the presentation of evidence of the case SCHIRACH. In the interest of saving time I shall not deal more specifically with the alleged connection of SCHIRACH with ROSENBERG or STREICHER, nor into his alleged collaboration with the program for slave workers about which not even the slightest cooperation of the defendant. could be proven, nor into a telephone conversation which allegedly had been made by one of the Viennese officials with a SS - Colonel (SS-Standarten-fuehrer) about the compulsory work of the Jews, nor into the Adolf HITLER Schools which were founded by SCHIRACH, nor into the fifth column which somehow was connected with the HITLER Youth, about which nothing definite could be charged to the defendant. I shall no longer dwell either on the repeated attempts of the defendant SCHIRACH and his friend Dr. Colin ROSS for peace and neither shall I discuss the merits of the defendant concerning the evacuation of children to the rural areas, which took millions of children from bombendangered districts during the war into more quiet zones and which thus saved their lives and health.

The defendant von SCHIRACH has already talked about all these affairs in details himself, and I should therefore like to refer to his own statements.

I shall discuss only one more problem here, namely SCHIRACH's position and attitude concerning the Jewish question.

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Schirach has admitted here on the witness stand that he has been a convinced National Socialist and thus also an anti-Semite from his earliest youth. He has also made clear to us what he understood by anti-semitism during those years: He thought of the exclusion of the Jews from civil service and of the limitation of Jewish influence in cultural life and perhaps also in economic life, up to a certain extent. But that was all which in his opinion should be undertaken against the Jews, and this was in accordance with the suggestion "which he had already made as leader of the students' organization for the introduction of a quota (see page 10,142). The defendant's decree concerning the treatment of Jewish youth is, for example, also important for his attitude (Document book Schirach No. 136), where he expressly orders that the Jewish youth organizations should have the right and the possibility to practice freely within their framework; they were not to be disturbed in their own life. "In the youth (it says there) the Jewish community shall already today take that secluded and in itself unrestrained special position which at some time the entire Jewish community will receive in the German State and in the German economy." Obviously Schirach was not at all thinking about programs, not about bloody persecution of Jews and such he rather believed at that time that the anti-semitic movement has already reached its aim by the anti-Jewish legislative measures of the years 1933/34; with this he believed the Jewish influence to be removed, as far as it seemed unhealtly to him. He was therefore surprised and seriously perplexed when the Nuernberg Laws were issued in 1935 which expressed a complete exclusion of the Jewish population and carried it out with barbaric severity. Schirach has in no way taken part in the planning of these laws; he has nothing whatsoever to do with their content and their formulation (compare transcript page 10,142).

When he heard on 10 November 1938 about the program against the Jews and about the brutal excesses which were staged by Goebbels and

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became known throughout the entire yout (compare page 10, 142). We have heard from the witness LAUTERBACHER (page 10, 302), how Schirach reacted to the report of these excesses: He immediately called his assistants together and gave them the strictest orders that the Hitler Youth had to be kept out of such actions under all circumstances. In this sense he also had the officers of the Hitler Youth in all German cities notified by telephone, and he warned every non-commissioned officer that he would hold him personally responsible, if any excesses should occur in the Hitler Youth.

But even after November 1938, Schirach never thought of the possibility that Hitler was thinking about the extermination of the Jews. He rather only heard about it that the Jews should be evacuated from Germany into other states, that they should be transported to Poland, and that they should be settled there at worst in ghettos, but probably in a closed settlement area. When Schirach received in July 1940 Hitler's order to take over the Gau Vienna, Hitler himself also talked to him along the same lines, namely that he would have the Jews brought from Vienna into the General Government; and even today Schirach has no doubt that Hitler himself was not thinking about the so-called "final solution" of the Jewish question at that time (1940). We learn from the HOSSBACH minutes and other evidence of these trials that Hitler was planning the evacuation to Poland already in 1937, but that he decided on the extermination of the Jewish people only in the year 1941 or 1942. (compare with it page 10,147 et seq).

Schirach had nothing to do at all with the evacuation of the Jews from Vienna; the execution of this measure was exclusively in the hands of the Reich Security Main Office (RSHA) and the Vienna office of this agency, and it is known that the Vienna SS Lieutenant (SS-Sturmfuehor) DR. BRUNNER has in the meantime been sentenced to death because of it. The only report which Schirach received and carried out concerning

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the Viennese Jews, was to report to Hitler in 1940, how many Jews there were still left in Vienna, and he gave this report in a letter of December 1940, where he gave the figure of the Viennese Jews for 1940 as being 60,000. As it is known, Minister LAMMERS answered this letter by the defendant Schirach with a letter, dated 3 December 1940 (PS 1950), which shows with all clarity that it was not Schirach who ordered the evacution of the Viennese Jews into the General Government, but Hitler himself, and that it was not Schirach, either, who carried out this measure, but the Reichsfuehrer - SS Himmler who delegated his Vienna office with this task. It therefore has to be stated here categorically that Schirach is in no way responsible for the deportation of the Jews from Vienna; he did not execute this action and he did not start it; when he came to Vienna in the summer of 1940 as Gauleiter, the large part of the Viennese Jews had already voluntarily emigrated or had been forcibly evacuated from Vienna, a fact which was also confirmed by the defendant Seyss-Inquart. The remaining 60,000 Jews who were still there at the beginning of Schirach's time in Vienna were deported from there by the SS, without his participation and without his responsibility. In spite of it, Schirach held the well-known Viennese speech of September 1942 (No. 3046 PS) in which he stated that every Jew working in Europe was a danger for European culture; Schirach furthermore said in this speech: If one wanted to make reproaches to him now that he had deported 10,000 and more Jews into the Eastern ghetto from this city which had once been the metropolis of Judaism, then he had to answer: "He considers that as an active contribution to European culture." Schirach has openly and courageously admitted that he actually expressed himself in this sense at that time, and he has stated here remorsely: "I cannot take back this wicked word, I must take the responsibility for it, I spoke this word which I sincerely regret. (page 10,152).

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HITLER possibly saw in his Youth Leader the personification of the coming generation who thought in worldwide terms, whose feelings were humane and who felt themselves more and more bound to those perceptions of true morality which HITLER had long ago thrown overboard for himself and his leadership of the nation because they were no longer concepts of true morality but mere slogans of a meaningless propaganda. This feeling might have been a deeper reason for HITLER to discuss SCHIRACH as Youth Leader suddenly in the summer of 1940, without any word of explanation, and send him to Vienna as Gauleiter, a most difficult position in the city he (HITLER) hated from the bottom of his heart, even whilst he spoke of his "Austrian Fatherland". In Vienna SCHIRACH's position was extremely complicated. Wherever he went he was shadowed and spied upon, his administrative activity there was sharply criticised, he was reproached for not looking after the interests of the Party in Vienna for hardly ever assisting at Party meetings and for not making any public speech (compare Affidavit Maria HOEPKEN, Document book SCHIRACH No. 3, figures 9 - 11). The Berlin Party Chancellery received any complaints the Vienna Party members made about their new Gauleiter with satisfaction and this fact alone might explain the unfortunate speech SCHIRACH made in September 1942, which was diametrically opposed to the attitude he had always maintained to the Jewish question. After the interrogation of the witness Gustav HOEPKEN (Page 10 335), there can be no doubt as to how the Vienna Speech had come about, for it indicates that SCHIRACH had then expressly commissioned his press agent Guenther KAUFMANN to emphasize this particular point when telephoning his report of the Vienna speech to the German News Agency, "because he had to make a concession to BORMANN in this respect", a point stressed by SCHIRACH himself in the course of his interrogation with the words "out of false loyalty he had morally identified himself with these acts of HITLER and HIMMLER". (Page 10152).

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Should the Tribunal see in these words a legally punishable crime against humanity, SCHIRACH must make atonement for this single anti-semitic remark which could be proved against him, though they merely remained words and did not result in any harmful aftermath. SCHIRACH's attitude here does not exempt the Tribunal from its duty to verify carefully what SCHIRACH has really done, furthermore under what circumstances he made this remark, and finally whether SCHIRACH had also made any other spiteful remarks against the Jews, or committed any malicious actions against Jewry as a whole.

The foremost question is: what has SCHIRACH really done? The reply to it as arising from the results of these proceedings can only be: apart from the fact that he made some isolated anti-semitic remarks in September 1942, he has not committed any crime against the Jews. He had no competence in the question of the deportation of the Vienna Jews, he did not participate in it at all, and having too little power he could not prevent them altogether. It is just as the prosecution incidentally stated (page 2645 of the German transcript): He boastfully attributed to himself an action which in reality he had never committed, and in view of his entire attitude could never have done.

What, however prompted SCHIRACH to make this remark? How did he come to attribute an incident to himself and incriminate himself for an activity which he had never committed? The answer is given by the results of the evidence: It demonstrates how very difficult a position SCHIRACH had in VIENNA; without giving any reason, HITLER dismissed him as Reich Sport Leader, presumably because he no longer trusted him. From one year to another HITLER's fear was growing that the more youth stood behind SCHIRACH, the more they would be alienated from him (HITLER), the more the black wall of his SS was separating him from his people.

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This malicious speech which SCHIRACH made in September 1942 is, however, in another sense a very valuable point in favour of SCHIRACH: in the course thereof SCHIRACH speaks of a "Transfer of the Jews to the Ghetto of the East". Had SCHIRACH known at that time that the Vienna Jews were to be sent away in order be murdered in an extermination camp, without doubt - in view of the purpose of this speech - he would not have spoken of an Eastern Ghetto, to which the Jews had been sent, but he would have reported the extermination of the Vienna Jews; but even at that time, in the fall of 1942, he never had the slightest idea that HITLER wanted to kill the Jews. That he would never have approved of and never accepted, his anti-Semitism had at no time gone so far.

SCHIRACH has also frankly stated here that he had at that time approved of HITLER's plan for a Jewish settlement in Poland, not inspired by anti-Semitism or hatred of the Jews, but by the reasonable consideration, that with regard to actual conditions, it would have been in the own interests of the Jews to leave Vienna for Poland, because the Jews could not in the long run have been able to stay in Vienna for the duration of the Hitler-regime, but would have always been exposed to serious persecution; as SCHIRACH declared on 24 May 1946 (Page 10147) "considering GOEBBELS' temperament" it always seemed possible that incidents, like those of November 1938, could be evoked in one night, and under such conditions of legal unsecurity the existence of the Jewish population in Germany would be unimaginable. He thought that Jewry would be safer in a restricted settlement area of the General Government than in Germany and Austria, where it was exposed to the "whims of the Propaganda Minister", who indeed had been the main supporter of the radical anti-Semitism in Germany. (Page 10 146).

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SCHIRACH was well aware of this fact. He could not shut his eyes to the knowledge that the drive against the Jews in Germany daily became obviously more drastic, more fanatic and so very much more violent.

This conception of the Vienna speech of September 1942 and the true cause of its genesis, coincide with the declaration of the defendant SCHIRACH at the meeting of the Town Councillors of Vienna on 6 June 1942 (No 3886-PS), namely that in the late summer and fall of this year all jews would be expelled from this city, and likewise with the file note of the Reichsleader BORMANN of 2 October 1940 (USSR 142), according to which, at a social meeting at HITLER's home, SCHIRACH had remarked that he still had more than 50.000 Jews left in Vienna, which the Governor General of Poland must take over from him. This remark finds its reasoning in SCHIRACH's embarrassing situation at that time; HITLER, on the one hand pressed more and more for the expulsion of the Jews from Vienna, the Governor General Dr. FRANK on the other hand strove against the acceptance of the Vienna Jews in the General-Government. This disagreement was evidently the reason for SCHIRACH discussing this fact at the above-mentioned meeting on 2 October 1940, in order to avoid renewed reproaches by the Fuehrer. He SCHIRACH personally was not interested in the slightest in the removal of the Vienna Jews, as was proved by the testimony of the witness Gustav HOEPKEN (Compare report on page 10334-35) regarding the discussion between SCHIRACH and HIMMLER in November 1943. But HITLER demanded it and HIMMLER insisted on its execution.

The Prosecution has now thought it possible to reproach SCHIRACH with having made another malicious anti-Semitic remark, namely a speech which he supposedly made in late December 1938 at a Student's Meeting at Heidelberg. Across the Neckar River he pointed to the old University-town of Heidelberg, where several burned-out synagogues were the silent witnesses of the anti-Semitic activities of the students of Heidelberg and where the "little stout Reichstudents' leader" - as it is stated literally - is said to have by this incident approved and praised the anti-Jewish pogroms of 9 November 1938 as a heroic act.

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This accusation is supported by the declaration in lieu of oath of a certain Gregor Ziemer (No.2441 PS. US 679). However there can be no doubt, that this claim of Ziemer is false. Ziemer never belonged to the student movement or the Hitler Youth, and obviously was not personally present at the student assembly in question; The affidavit does not state from what source he is supposed to have obtained his knowledge; however, that his claim is false, is already proven by his description of physical appearance when he speaks of a "little, fat student-leader"; for this does not at allapply to SCHIRACH; perhaps it would to some extent apply to his successor, who was Reich Student Leader at the end of 1938, but it certainly was not SCHIRACH. As is known he had already in 1934 given the office of Reich Student Leader back into the hands of the Fuehrer's deputy, after he himself had in the meantime been appointed Reich Youth Leader. SCHIRACH did not hold a speech at the end of 1938 or at any other time before Heidelberg students, and by the affidavit of the witness Mrs. Maria Hoepken v. SCHIRACH Document Book No. 3 it has been clearly proven, that at the time stated, from 9 November 1938 until the end of the year 1938, SCHIRACH was not in Heidelberg at all. SCHIRACH has also stated this under oath (Tag 10 111 et seq. 10 116) and his own statemen/can lay claim to credibility because he has not white washed anything for which he was responible, and he has not wrongfully denied anything, but on the contrary has accounted for all his actions like a man and with love of the truth.

Still another fact, decisively confirms that the claim of the Ziemer affidavit is untrue, at any rate in regard to the person of SCHIRACH, however, is still another fact: In the presentation of evidence it happened to be stated by chance, how SCHIRACH reacted to the November-progroms of the year 1938:

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The witness LAUTERBACHER (page 10 302) has informed us here, as already mentioned on another occasion, that SCHIRACH on 10 Nov 1938 had condemned most vehemently the events of 9 Nov 1938 before his collaborators, and declared that he felt ashamed for the others and the whole party. The 9 Nov 1938 would go down to german history as a unique german cultural disgrace : We could not wash ourselves clean of it; Such a thing could have happened with an uncivilized people but it should never have occurred with us Germans who imagine ourselves to be a highly civilized people. The Youth Leader had to prevent such excesses under any circumstances; of his own organization he did not wish to hear anything like it, neither now nor in the future. The Hitler Youth must be kept outside such things under any circumstances. SCHIRACH then had all the offices of the Hitler Youth informed by phone from Berlin in the same sense. If SCHIRACH in November 1938 condemned and disowned in such an extremely sharp manner the events of 9 Nov 1938, it is impossible, for him to have celebrated at about the same time the bloody acts which had been committed and thus have incited the HEIDELBERG students and the question therefore arises as to why a single participant of that student meeting in HEIDELBERG was not brought here as a witness, but that the Tribunal was satisfied instead with a witness who could only testify from hearsay. Moreover, the representative of the Prosecution did not revert to this alleged HEIDELBERG speech, during the cross examination and thereby acknowledged SCHIRACH's own presentation of the facts as correct.

It is also a very significant fact, that the Hitler Youth did neither participate in the excesses of 9 November 1938 nor did they commit any violence of such a kind either before or afterwards. The Hitler Youth was then the strongest Party organization; it comprised about 7 – 8 million members and in spite of that not one single case has been proved

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where the Hitler Youth participated in such crimes against humanity, although it's members were mainly of an age, which according to experience is only too easily tempted to participate in excesses and acts of brutality. The only exception which has been claimed, concerns the testimony of the French woman Ida VASSEAU, who is said to have been head of an Old People's Home in LEMBERG and who is supposed to have claimed, according to the report of the Commission, USSR 6, "that the Hitler Youth had been given children from the Ghetto in LEMBERG whom they used as living targets for their shooting practice". This single exception, however, which has been claimed so far, could not be cleared up in any way, particularly not in the direction of whether members of the Hitler Youth had really been involved. But even if there had been such a single case among the 8 million members during 10 or 15 years, this could not in any way prove that Baldur von SCHIRACH had exercised an inciting influence.

Let us at last examine all the speeches and articles which SCHIRACH wrote as Reich Youth Leader and which are in the possession of the Tribunal in the document book, they extend over a long period of years, yet they do not contain a word inciting to race hatred, preaching hatred of Jews or exhorting the youth to commit acts of violence or defending such acts. If it has been possible to keep the members of the Hitler Youth, who numbered millions, apart from such excess, it proves the fact that the leaders endeavoured to imbue the youth with the spirit of tolerance, love of his neighbour and respect of human dignity.

How SCHIRACH thought about the treatment of the Jewish question, is clearly evident from the scene which occurred in spring 1943 on the OBERSALZBERG (Page 10154 fg.) and which is also described in the affidavit of the witness Maria HOEPKEN (Doc. book. v. SCHIRACH No. 3 figure 5.) I refer to the scene where SCHIRACH's wife told HITLER in his home

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how she had witnessed with her own eyes from a hotel-window in Amsterdam, how the Gestapo had deported hundreds of Dutch Jewesses. SCHIRACH himself could not dare at the time to bring such matters to HITLER's attention; a decree of BORMANN had expressively prohibited this to the district leaders (Gauleiter). SCHIRACH therefore agreed with his wife that the latter should try to gain an improvement in the treatment of the Jewish question with HITLER She did not succeed in this; HITLER dismissed Frau von SCHIRACH with the harsh words "these were sentimentalities", and Frau von SCHIRACH did not understand anything about it. Because of this intervention on behalf of the Dutch Jews the situation of the defendant von SCHIRACH had become so critical that he preferred to leave the Obersalzberg immediately in the early morning of the following day, and since that time HITLER was on principle no longer accessible to SCHIRACH.

This intervention of SCHIRACH for a milder treatment of the Jewish question perhaps also contributed to the fact that HITLER, a few months later, in the summer of 1943, seriously considered having SCHIRACH arrested and having him brought before the People's Court, for the reason alone that SCHIRACH had dared in a letter to Reichsleiter BORMANN to describe the war as a national disaster for Germany.

In any case all this shows that SCHIRACH forcibly stood for moderation in the Jewish question, and that in a manner, whereby he endangered his own position and existence. In spite of the fact that he was an anti-Semite, - and it is just because of this that it deserves attention - he withstood all pressure from Berlin and refused to have an anti-Semitic special edition published in the official journal of the HITLER-Youth, while he had published his own special editions for an understanding with England and for a more humane treatment of the Eastern nations; it is no less worthy of consideration that SCHIRACH in conjunction with his friend Dr. Colin ROSS, strove for the emigration of the Jews into the neutral foreign countries (see page 10 149) in order to save them from being deported to a Polish Ghetto.

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7. The prosecution has now endeavoured to justify the accusation of a certain share of the defendant von Schirach in the responsibility for the progroms against Jews which occurred in Poland and Russia, by trying to use against him the so-called "Reports on practice and situation" which were regularly sent in by the SS to the "Commissioner for Defence of the Reich in Military Administrative District XVII" (cf. 3876 PS). In fact it must be said: If Schirach had at that time had cognizance of these regular "Reports on practice and situation of the operational groups of the Security Police and the Security Service" in the East, then this would indeed entail for him a grave moral and political charge; he could then not be spared the reproach that he must have been aware that, apart from the military operations in the East, horribly cruel mass murders of Communists and Jews had also taken place. The character picture we have had so far of von Schirach, who was also described by the prosecution as a "cultured man", would be obscured very materially if von Schirach effectively had seen and read these reports. For he would then have known in Latvia and Lithuania, in White Ruthenia and in Kiew, mass murders had taken place, and this quite obviously without any judicial proceedings of any kind and without sentence being passed.

What has, however, been proved by the evidence?

The reports referred to went, as to dozens of others offices, also to that of the "Reich Commissioner in Military Administrative District XVII" and moreover with the express direction "for attention of Government Councillor (Regierungsrat) Dr. Hofmann" or "for attention of Government Councillor (Regierungsrat) Dr. Fischer". From this style of address and from the way in which these reports were initialled at the office of the "Commissioner for Defence of the Reich" it can be established beyond question that Schirach did not have an opportunity of seeing these reports, and that he obtained no knowledge of them in any other way either.

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SCHIRACH, as is well-known, occupied three extensive offices in Vienna: as Reichsstatthalter and Reich Defense Commissioner he was the chief of the whole STATE administration, as Lord Mayor he was the head of the COMMUNAL administration, and as District Leader (Gauleiter) of Vienna, he was the top of the local PARTY-machine. It is now only natural that SCHIRACH could not fulfil all these three tasks by himself, especially since in 1940 he had entered a completely different field of tasks, and first had to become accustomed to the work in the state as well as in the communal-administration. He therefore had a permanent deputy for each of his 3 tasks, and this was for the affairs of the state administration, Regierungspresident Dr. DELBRUEGGE. Subject Dr. DELBRUEGGE had to handle the current affairs of the state administration completely on his own; SCHIRACH occupied himself only with matters of the state administration with regard to such matters, which were directed to him by his permanent deputy Dr. DELBRUEGGE in written form or about which Dr. DELBRUEGGE or one of the departmental assistants reported to him orally.

Now, if this had been the case with regard to the aforementioned "Situation and Experience-Reports" ("Lage- und Erfahrungsberichte") then this would have somehow been noted on the documents in question; on the Experience- and Situation-Reports" submitted there is not a single note however, which shows that this report was submitted to the defendant von SCHIRACH or that he was oriented about it. This can also be understood without further explanation; because after all, the experiences which the police and the SD had accumulated in the partisan-struggles in Poland and Russia, were completely inconsequential for the Vienna administration; therefore there was not the least cause to inform the defendant von SCHIRACH in any way who was very much overburdened anyway with administrative matters of all kinds, of these reports.

This result not only depends primarily on the testimony under oath of the defendant (Page 10 228 f.), but also on that of both witnesses

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HOEPKEN (Page 10 336 f.) and WIEHOFER (Page 10 366), who as Chief of the "Central Office" and/or as adjutant of the defendant were able to give the most exact information about the Vienna conditions. It is certain that these "Experience and Situation Reports" never came into the distribution of the "Central Office" in Vienna, but only into the distribution of Regierungspraesident Dr. DELBRUEGGE, and that HOEPKEN as Chief of the Central Office, as well as Wieshofer, as adjutant of the defendant, likewise did not have any previous knowledge of these "Experience and Situation Reports" but came to see them for the first time here in the Court Room during their questioning.

In any case the result is, as has been proven by the file notes which are on the documents, that SCHIRACH did not have <u>any</u> knowledge <u>whatsoever</u> of these reports, that he is not co-responsible for the atrocities described therein, and therefore cannot be criminally charged on account of these activity reports.

8. In order to judge the policy of SCHIRACH, his behavior during the last weeks in Vienna is also not without importance: for SCHIRACH it was only natural not to carry out the various insane orders which came from Berlin then: he has turned the lynching-justice concerning enemy aviators which was ordered by BORMANN far from himself, and likewise the order to hang defeatists without pity, regardless whether they were men or women; <u>his</u> summary court has never even been in session, <u>his</u> summary court has not pronounced a single death sentence, NO BLOOD STICKS TO HIS HANDS. On the contrary, he has done everything, for example, in order to protect enemy aviators who had made an emergency landing, from the excited mob, and he has, as we have heard from the witness WIESHOFER, for example (transcript Page 10 356) immediately sent out his own motor vehicle, in order to bring American aviators who had parachuted, into safety; thereby he again placed himself in conscious contrast to an order of BORMANN, that such

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aviators were not to be protected from lynching acts of the civilian population. He also did not pay any attention to the order that Vienna was to be defended TO THE LAST MAN, or that in Vienna, bridges and churches and residential sections were to be destroyed, and he abruptly refused the order to form PARTISAN UNITS in civilian clothing or to continue the hopeless struggle in a criminal manner with the aid of the "WERWOLF"; he refused such demands from his sense of duty, especially since this would have caused him to violate international law (compare here Transcript Page 10 343 f. and 10 355 f.)

9. The picture of the character of the defendant von SCHIRACH would be incomplete, if we did not recall at this moment in addition the declaration which he deposed here in the morning of 24 May 1946. I am speaking of that declaration in which he has described HITLER as a MILLIO FOLD MURDERER, here before the whole German people and before the whole world public. SCHIRACH has already in the past year made declarations which show his FEELING OF RESPONSIBILITY and his preparedness to answer for his actions AND THOSE OF HIS SUBORDINATES to the full extent. This was the case on 5 June 1945, for example, when he was hiding in Tyrol, and heard over the radio that all Party leaders were to be brought before an Allied court. SCHIRACH as a result of this reported himself immediately and in his letter to the American local commander stated he was doing this in order to prevent others being made to account for his actions, who had only executed his orders; he surrendered voluntarily, although the English radio had already announced the news of his death, and although SCHIRACH could have hoped to remain in his hiding-place undiscovered. This manner of action deserves consideration in judging the personality of a defendant and in estimating his guilt.

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The same love of responsibility was then shown by SCHIRACH in the autumn of 1945 as he was heard by the Prosecution: he believed then that his successor AXMANN had fallen; in spite of this, SCHIRACH did not attempt to pass his responsibility on to his successor; on the contrary, he expressly stated that he assumed full responsibility also for the time of his successor, as well as for what had been done under his successor in the Reich Youth Leadership. The keystone in this line is now fashioned by the statement which SCHIRACH made here on May 24th, 1946 and which went out of this room into the wide world, into all the German lands up to the last farm, up to the last workman's hovel.

Any man may err, he may even make mistakes that he later may not himself understand; SCHIRACH also has erred; he has brought up the youth for a man whom he for many years held as unimpeachable and whom he must now brand as a diabolical criminal; in his idealism and out of loyalty he remained faithful and true to his oath to a man who deceived and cheated him and the German youth and who, as we learned here from SPEER, up to his last breath placed his own interests higher than the existence and the happiness of 80 million people.

SCHIRACH is perhaps the one defendant who not only clearly realized his mistakes, - which you may judge whichever way you like, - but who confessed them most honestly and who through his plain speaking prevented creation of a legend in the future. Such a defendant must be given the benefit of his trying to repair as far as lies within his possibilities the damage which in good faith he has caused.

SCHIRACH has tried to do that: he took pains to open the eyes of our people about the "Fuehrer", in whom, together with millions of Germans he saw, through many years, the deliverer of the Fatherland and the guarantor of its future. The former leader of the Reich youth wanted before any thing else

to tell the GERMAN YOUTH openly that so far, quite unknowingly and with the best intentions, he had led them astray, and that now they must take another direction, if the German people and the German culture were not to perish. In this, SCHIRACH did not think of himself; he was thinking of the youth of today, which not only is facing the ruins of our cities and dwellings, but is also wandering about among the wreckage of its former ideals; he was thinking of the German youth, which is in dire need of a new orientation and which must base its future existence on another foundation. SCHIRACH hopes that the entire German youth has heard his words. What was particularly valuable in his confession of May 24th 1946 was his assurance that he alone bore the guilt for the young people, just as he formerly bore the command over them.
If this point of view is acknowledged as being right, and if the necessary conclusions are drawn therefrom, the result would be for our German youth a valuable outcome of these trials.
My time is getting short; therefore I wish to come to the end of my considerations of the case of Baldur von SCHIRACH.

You are the highest tribunal of our times; the power of the whole world stands back of you; you represent the four mightiest nations on earth; hundreds of millions of men, not only in the defeated countries, but also in the victorious nations listen to your opinions and anxiously await your judgment.
This high authority gives you the possibility of doing much good through your verdict and its foundations, in order that out of today's disaster the way to a better future may be found for the benefit of your own people and for the blessing of the German people.
Today Germany lies on the ground, a poor people, the poorest of all: the German cities are destroyed; the German industry is smashed to pieces; on the shoulders of the German people rests a national debt representing many times the whole national wealth and which means want and poverty, hunger and slavery for many generations of the German people, if your people do not help us.

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The argument supporting your verdict will in many respects point the way for the help needed to emerge from this desperate plight.

For reasons of sentiment, it may be hard for you to consider this idea and to take it into account, when you think of the misfortune which the past six years also brought to your own countries. It becomes doubly hard, because for months these Court proceedings revealed nothing but crimes committed for a great number of years by a tyrant with the misuse of Germans and in the name of this same German people of whose future you as judges are now asked to think. Hitler is dead, with him his tools who in these years committed crimes without number tyrannising over Germany and nearly all of Europe. The German people, on the other hand lives and must be allowed to live if half a universe is not to fall into ruins.

With this trial and during this epoch the German people is undergoing a very serious operation; it must not bring death; it must bring healing. Your verdict can and must make a contribution in that direction, so that in future the world may not see in every German a criminal but revert again to the concept of Professor Arnold NASH of Chicago University who a few days ago when questioned about the purpose of his present trip to Europe replied, "Every scientist has two fatherlands, his own and Germany."

Do not forget: there always was and there still is today another Germany, a Germany that knows industriousness and economy, a Germany of Goethe and Beethoven, a Germany that knows loyalty and honesty and other good qualities which in past centuries were proverbial for the German character. You may believe us: in this epoch, as Germany regains consciousness after a severe illness, as she proceeds to rebuild a better future from the ruins of an evil past, a future for its youth which has no part in the crimes committed —— at this time 70 or 80 million German people are looking to you and are awaiting

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from you a verdict which will open the way for a reconstruction of German economy, of the German heart and true freedom.

You are independant judges not bound by an written law, pledged to serve your conscience only, and called by destiny to give to the world a legal order which will preserve for future generations that peace which the past was unable to preserve for them. A well - known democrat of the old Germany said this in a recent article on the Nuernberg Trial: In a monarchist State justice would be administered in the name of the King; in Republic Courts would pronounce their rulings in the name of the people but you, the Nuernberg Tribunal, you should administer justice in the name of humanity.

It is, indeed, a wonderful thought for the Court, an ideal aim, if it could believe that its verdict could realize the commands of humanity and that for all time it could prevent crimes against humanity. But in certain respects this would still remain an unsteady foundation for your verdict. Because ideas on what humanity demands or prohibits in individual cases may vary, depending upon the epoch, the people, the attitude of the party according to which one judges.

I believe you may find a reliable foundation for your verdict when you revert to the phrase already coined by the ancient Romans, the phrase which endured throughout centuries and which certainly will still remain valid in ages to come:

Justitia est fundamentus regnorum.

Pronounce a judgment hailed not only by the victor nations of today as the last victory over Germany, but which history also will recognize as just; pronounce your verdict in the name of justice!